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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/995,899 | 11/28/2001 | Robert J. Macdonald | 34200 | 1559 |
| 116 | 7590 | 07/18/2005 | EXAMINER | |
| PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108 | | | CONLEY, FREDRICK C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3673 | |

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/995,899

Applicant(s)

MACDONALD, ROBERT J.

Examiner

FREDRICK C. CONLEY

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-8, 10 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-8, 10 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/26/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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The indicated allowability of claims 6-8, 10, and 12-15 is withdrawn in view of the newly discovered reference(s) to U.S. Pat. No. 3,789,441 to Weiss. Rejections based on the newly cited reference(s) follow. The Examiner regrets any inconvenience.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-8, 10, and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 3,789,441 to Weiss.

Claim 6, Weiss discloses a fitted sheet for a mattress comprising a rectangular panel of knit material having a central rectangular area 12 extending from one end of said panel to the other end thereof, and side margins (14-17) flanking said central area, said side margins being folded under said central area and joined thereto by seams 18 extending across each end of said central rectangular area,

wherein said rectangular panel of knit material has side edges that are not finished, and at the end of said sheet, said seams are sewn directly over said unfinished edges, and wherein said unfinished edge is rolled into a curled edge prior to being sewn flat (col. 4 lines 27-31).

Claim 7, further characterized in that said rectangular panel of knit material is fabricated from a tube of knit material that has been slit and opened to form a rectangle with cut edges (col. 3 lines 3-16).

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Claim 8, further characterized in that said cut edge, in a finished sheet, is curled under into itself (col. 4 lines 27-31).

Claim 10, Weiss discloses a method of making a fitted sheet, comprising the steps of:

- i) cutting a predetermined length of a tube of knit fabric,
- ii) slitting said length of fabric along its length in a straight line from end to end (col. 3 lines 3-16);
- iii) arranging said fabric so that the slit edges of said fabric are folded over onto the main body of said fabric; and
- iv) sewing a seam 18 across each end of the fabric, thereby to join the folded-over edges of the fabric to the main body thereof in a folded over state, wherein said slit edges are sewn to said main body in an unfinished state, wherein said slit edges are curled inwardly before being seamed to said main body of said fabric (col. 4 lines 27-31).

Claim 12, wherein said slit edges are curled inwardly before being seamed to said main body of said fabric (col. 4 lines 27-31).

Claim 13, wherein said seams are generally convexly arcuate (col. 4 lines 15-17).

Claim 14, Weiss discloses a method of making a fitted sheet comprising the steps of:

- i) cutting a predetermined length of a tube of knit fabric;
- ii) slitting said tube of fabric along an edge thereof, from end to end (col. 3 lines 3-16);

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iii) cutting a shallow corner (20,22) from each end of said tube of fabric, at the slit side thereof, from first points on the cut edge near the end, to second points on the end, near the folded-over mid-line of the slit tube of fabric;

iv) opening the fabric, and folding the side margins thereof inwardly so that at each corner thereof, the said first points are laid on top of the said second points; and

v) sewing a seam 18 across the top and bottom ends of the fabric, to join the folded-over margins to the main body of the sheet.

Claim 15, wherein said seam is sewn, the cut edge of said fabric is curled in, and sewn flat in the curled-in condition (col. 4 lines 27-31).

Response to Arguments

Applicant's arguments with respect to claims 6-8, 10, and 12-15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is 571-272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 571-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC



ALISON PICKARD
PRIMARY EXAMINER